IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15179 of 2004

Between:

K. Kondaiah S/o Yenadaiah
Grampanchayat, Lingasamduram (M) Prakasam District

..... PETITIONER

AND

The District Panchayat Officer, Prakasam District at Ongole

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring order of the respondent in Roc NO. 1307/2004 (PTS) A1 dated 9/8/2004 is illegal irregular, without jurisdiction and violative of Articles 14 of Constitution of India and also the provisions of A.P. Panchayat Raj Act 1994 and Rules framed there under in G.O.Ms. No. 30 PR RD &R dated 20/1/1995, set a side the same and consequently direct the respondent not to prohibit me from drawing any funds as Sarpanch of Pentrala Gram Panchayat, Lingasamudram Mandal

Counsel for the Petitioner: MR.SATYANARAYANA NIMMAGADDA

Counsel for the Respondent No.: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the admission stage made the following ORDER:

By the impugned notice, the petitioner was called upon to show cause as to why disciplinary action cannot be taken for the irregularities committed by him, as shown in the Annexure, within 15 days from the date of receipt of the same. It is further informed that if he fails to submit his explanation within the stipulated time, it would be presumed that he has no explanation to offer and further action would be taken, basing on the material available on record. Pending final orders, the petitioner was prohibited from drawl of the General Funds/S.G.R.Y/E.F.C authorizing the Mandal Extension Officer (PR&RD) Lingasamudram, to operate on the General/S.G.R.Y/E.F.C funds of Pentrala Gram Panchayat, until further orders.

The learned counsel for the petitioner submits that under Rule 42(1) of the A.P. Panchayat Raj Act 1994 and the Rules framed under G.O.Ms.No.30 PR RD&R dated 20.01.1995, for the reasons to be recorded in writing, the District Panchayat Officer may prohibit the executive authority from drawing money from Gram Panchayat for the period, but no such order shall be passed unless opportunity of making representation has been given to the executive authority. He further contends that the executive authority is replaced by Panchayat Secretary and the question of issuing the impugned show cause notice prohibiting the petitioner from drawl of the funds does not arise. He also contends that the petitioner is entitled to a notice before prohibiting him from drawing the money. Rule 40 of the Rules, as amended by G.O.Ms.No.137, P.R.R.D. dated 22.03.1996, postulates that all cheques against the Gram Panchayat fund shall be signed by the Sarpanch of the said Gram Panchayat and the drawing of money under this Rule by the executive authority shall be subject to the control of, and the conditions laid down by the District Panchayat Officer concerned under Rule 41. Since the order is passed under Rule 42 (1) of the Rules, pending final orders, the same does not suffer from any infirmity.

In view of the same, the petitioner is directed to submit his explanation to the show cause notice and only after passing the final order, he can avail the remedies in accordance with law.

The writ petition is accordingly, disposed of. No order as to costs.

A.Gopal Reddy, J

Date: 25.08.2004

Va

To

1. The District Panchayat Officer, Prakasam District at Ongole
2. Two CCs to G.P. for Panchayat Raj and Rural Development, High Court of A.P. Buildings, Hyderabad (OUT)
3. Two CD Copies